IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH

AT HYDERABAD

(SPECIAL ORIGINAL JURISDICTION)

Monday, the Second day of August, two thousand and four

PRESENT

THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No. 7263 OF 2002

BETWEEN:

G.Mohana Rao S/o Satyam Naidu, aged about 41 years, Occ: Conductor, O/o Depot Manager, APSRTC., Salur Depot, Salur, Vizianagaram District, R/o Potha Bobbili, Bobbili Mandal, Vizianagaram District.

Petitioner

And

The Depot Manager, Andhra Pradesh State Road Transport Corporation, Salur Depot, Salur, Vizianagaram District.

Respondent

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate order or writ, more particularly one in the nature of Writ of Mandamus by setting aside the proceedings No.01/804(2)/97-SLR, dated 1-3-2002 issued by the respondent herein after a lapse of 4 years, by holding it as bad,

illegal, arbitrary, irrational, without jurisdiction, contrary to the Office Manual CCA., Regulations and the Judgment of the High Court reported in 2000 – LIC (3489) besides being violative of Articles 14, 16 and 21 of the Constitution of India.

For the Petitioner: Mr.J.Sudheer, Advocate.

For the Respondent: Mr.P.V.Sanjay Kumar

The Court made the following :

ORDER:

The petitioner questions the order of the respondent dated 1-3-2002 in imposing penalty to recover an amount of Rs.33,822/- from the petitioner towards the value of the lost ticket blocks.

The petitioner is a Conductor, working in A.P.S.R.T.C. While performing his duty as conductor from Bobbili to Visakhapatnam in RTC bus No.AP9Z 2111, he lost the ticket blocks worth Rs,33,822/- on 14-6-1997. A complaint was also lodged to the police with regard to the loss of ticket blocks. After conducting a preliminary enquiry, the respondent came to the conclusion that the petitioner has simply left the tray box in the bus to its fate and left the premises. By the reason

of negligent act of the petitioner, the Corporation sustained loss of tickets worth Rs.33,822/-. On the said allegations, an enquiry was initiated against the petitioner for the following charge:-

> "For having not taken any initiative to preserve the tray box negligently, which caused loss of ticket blocks worth Rs.33,822/-, which constitutes mis-conduct under Regulation 28(v) of APSRTC Employees (Conduct) Regulations 1963".

In pursuance of the said charge, a show cause notice was issued and final order dated 9-9-1997 was passed, awarding punishment of deferment of annual increments for a period of two years without cumulative effect. Subsequently, a show cause notice dated 30-9-1997 was issued for recovery of an amount of Rs.280/- towards cost of the printing/stationary charges of lost ticket blocks. Final order was also passed on 30-10-1998 and ordered for recovery of an amount of Rs.280/- from the wages of the petitioner towards cost of printing charges of 28 blocks lost by the petitioner.

Against the said order, the petitioner filed an appeal before the Deputy Chief Traffic Manager, APSRTC., Vizianagaram and the appellate authority by its proceedings dated 23-5-1998 on perusal of the entire records, came to the conclusion that since it is a first case of loss of tickets in the entire service of 10 years of the petitioner in the Corporation, reduced the punishment to that of one year deferment without having effect on his future increments. It was held that recovery of Rs.280/- towards cost of printing and stationary charges holds good. Thus, both the orders awarding punishment of deferment of one annual increment without cumulative effect and recovery of cost of the tickets towards printing and stationary have become final by the proceedings dated 23-5-1998.

After a period of four years, the Depot Manager, Salur, Vizianagaram District issued a show-cause notice dated 10-1-2002 as to why the face value of the entire tickets amounting to Rs.33,822/- shall not be recovered from the petitioner. After considering the explanation, the impugned final order has been passed giving credit to the amount of

Rs.280/- which was already collected towards printing and stationary charges and demanded to pay the balance amount of Rs.32,542/-. Questioning the said order, this Writ Petition is filed.

The said impugned order was suspended by this Court on 18-4-2002.

A counter has been filed by the respondent, stating that the petitioner was awarded with punishment of deferment of annual increment for a period of two years without cumulative effect, besides printing charges of ticket blocks worth Rs.280/-. The face value of the tickets lost is Rs.33,822/-. Apart from that as the charges were proved, impugned order has been passed for recovery of the face value of the total ticket blocks by the proceedings dated 1-3-2002. The first and second instalments amounting to Rs.1,570/- has also been recovered from the salary bill of March, 2002 and April, 2002.

It is not the case of the respondent that the lost tickets were mis-used by the petitioner. Admittedly, it is the case of loss of tickets. There is no any apprehension that the lost tickets could have been used. Admittedly, the charge is that the petitioner has not taken any initiative to preserve the tray box and for his negligence, the ticket blocks worth Rs.33,822/- were lost. There is no charge as regards to the mis-use of the said tickets. If that be so, the only relevant regulation imposing the penalty is clause (v) of Regulation 8, which reads as follows:-

> "Recovery from pay of the whole or part of any pecuniary loss caused to the Corporation by an employee's negligence or breach of orders".

Under the provision, if the Corporation faces a pecuniary loss by any employee's negligence the amount lost by the Corporation can be recovered wholly or partly. In no case, an amount more than the amount which was lost by the Corporation can be recovered from the negligent official. Therefore, Clause (v) of Regulation 8 also does not permit the Corporation to impose a penalty, which is more than the

amount of the loss of Corporation has suffered. Admittedly, in this case, the respondents have not suffered loss of the amount, which the tickets could fetch if they were sold to the passengers traveling in the bus. They have only suffered the loss, which was incurred by the Corporation towards printing/stationary of the lost tickets and the Corporation has already recovered the loss of printing and stationary charges of Rs.280/- apart from awarding punishment of deferment of one annual increment without cumulative effect.

Having imposed the punishment of deferment of one annual increment without cumulative effect and having recovered the cost towards printing and stationary charges of lost tickets, the respondent cannot recover the face value of the tickets as there is no charge for recovery of the face value of the tickets and admittedly, there is no mis-use or loss caused to the Corporation towards the face value of the tickets. The issue raised in this Writ petition is squarely covered by the Judgment of this Court in the case of **Ch.P.Reddy Vs. Andhra Pradesh State Road Transport Corporation** 2000 LAB I.C.3489.

For the aforesaid reasons, the Writ Petition is allowed and the impugned order is set-aside. The respondent is directed to refund the amount of Rs.1,570/- to the petitioner which was collected towards first and second instalments. No order as to costs.

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V.ESWARAIAH,J

2nd August, 2004.

Shr

Asst.Registrar.

To

1. The Depot Manager, Andhra Pradesh State Road Transport Corporation, Salur Depot, Salur, Vizianagaram District.
2. Two CD copies.